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UNITED STATES BANKRUPTCY COURT

DISTRICT OF OREGON

In re JORGE ALBERTO PERAZA-
CARRILLO

Debtor.

Case No. 12-38699-rld13

Confirmation Hearing Date: January 17, 2013

OBJECTION TO CONFIRMATION OF
CHAPTER 13 PLAN

1. EDUARDO HERNANDEZ, Creditor (hereinafter "Creditor Hernandez"), by and through his attorney, objects to the Chapter 13 Plan dated November 20, 2012 filed by Debtor JORGE ALBERTO PERAZA-CARRILLO (hereinafter "Debtor").
2. Creditor Hernandez objects to the confirmation of the proposed Chapter 13 Plan on the ground that it does not provide for full payment of all claims entitled priority under Section 507 of Title 11. 11 U.S.C. § 1322(a)(2). *See* Creditor Hernandez's

*Creditor Hernandez's Objection to Confirmation of Chapter 13
Plan - I*

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Memorandum in Support of Objection to Confirmation of Plan. As such, the Court should deny confirmation of Debtor's Proposed Plan.

I, Erin M. Pettigrew, hereby certify that a copy of this document was served on the Trustee, Debtor and Debtor's attorney by U.S. First Class Mail on January 3, 2013.

DATED this 2nd day of January 2013.

NORTHWEST WORKERS' JUSTICE PROJECT.

/s/ *Erin M. Pettigrew*
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OBJECTION TO CONFIRMATION OF
CHAPTER 13 PLAN

I. INTRODUCTION

1. EDUARDO HERNANDEZ, Creditor (hereinafter "Creditor Hernandez"), by and through his attorney, objects to the Chapter 13 Plan dated November 20, 2012 filed by Debtor JORGE ALBERTO PERAZA-CARRILLO (hereinafter "Debtor").
2. Creditor Hernandez was hired by an agent of Debtor to begin full-time work on a construction project in Corvallis, Oregon on May 02, 2012. Creditor Hernandez agreed

*Creditor Hernandez's Memorandum in Support of Objection to
Confirmation of Chapter 13 Plan - 1*

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to work for thirteen dollars an hour. Creditor Hernandez worked for Debtor's business until June 12, 2012.

3. Creditor Hernandez worked 296 hours on the construction project, 48.5 of which were overtime hours. Debtor paid Creditor Hernandez \$1,500.00 for the hours he worked. The balance of unpaid wages as of June 2012 was \$2,669.75. Creditor Hernandez unsuccessfully made his own attempts to collect on the wage debt, and ultimately retained an attorney at Northwest Workers' Justice Project to litigate his claim in August 2012.
4. On September 17, 2012, Creditor Hernandez received \$2000.00 in consideration for a release of a claim of lien filed on the basis of his unpaid wages from a third party subcontractor on the construction project. His attorneys received \$1000.00, plus the administrative costs of the lien filing and release of the lien. Creditor Hernandez has not received any additional payments from Debtor.
5. Creditor Hernandez has \$669.75 unpaid wages due to him, wages earned in June 2012, plus attorney fees owed upon the date of Chapter 13 filing in the amount of \$8,880.00, costs for \$167.24, and statutory penalties in the amount of \$7,204.88. *See Hernandez Proof of Claim*, filed January 2, 2013.
6. Debtor testified at the Meeting of Creditors that he closed his business, Peraza Construction, in late August or early September 2012.
7. On November 20, 2012, Debtor filed for Chapter 13 protection, proposing a thirty-six month payment plan at \$988 a month ("Plan"). Debtor estimates in Schedule E of his

Voluntary Petition for Chapter 13 Bankruptcy that he owes \$46,331.00 to unsecured creditors.

II. ARGUMENT

1. The Court should deny confirmation of the Plan because it does not provide for adequate payment of Debtor's priority unsecured creditors.
2. Creditor Hernandez is a priority creditor because Debtor failed to him pay wages earned within 180 days of the cessation of Debtor's business and within 180 days of Debtor's filing for Chapter 13 Bankruptcy. *See* Hernandez Proof of Claim, filed January 2, 2013; 11 U.S.C. § 507(a)(1)(4)(A).
3. Creditor Hernandez objects to the confirmation of the proposed Chapter 13 Plan on the ground that it does not provide for full payment of all claims entitled priority under Section 507 of Title 11. 11 U.S.C. § 1322(a)(2).
4. In his Chapter 13 Plan, Debtor proposes to pay \$988.00 per month for thirty six months, amounting to \$35,568.00. Debtor estimates in Schedule E of his Voluntary Petition for Chapter 13 Bankruptcy that priority, unsecured creditors are owed \$46,331.00, a figure not inclusive of Creditor Hernandez's claim for unpaid wages. On its face, the proposed Plan does not satisfy the priority claims of Debtor's creditors, in contravention of the requirements provided in 11 U.S.C. § 1322(a)(2).
5. Should the Court, in the alternative, grant an extended payment plan as provided in paragraph 8 of Debtor's proposed Plan, Debtor will pay a total of \$54,340.00 over the course of fifty five months. This is less than sum of the amount to be distributed to unsecured creditors, \$11,387.00, plus the amount owed to scheduled priority unsecured

creditors, \$46,331.00. Thus, under either configuration, Debtor's proposed plan does not conform to the requirements of Title 11. As such, the Court should deny confirmation of Debtor's Chapter 13 plan.

III. CONCLUSION

The Court should deny confirmation of Debtor's Chapter 13 plan because it does not satisfy the requirements of Title 11.

I, Erin M. Pettigrew, hereby certify that a copy of this document was served on the Trustee, Debtor and Debtor's attorney by U.S. First Class Mail on January 3, 2013.

DATED this 2nd day of January 2013.

NORTHWEST WORKERS' JUSTICE PROJECT.

/s/ *Erin M. Pettigrew*

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Of Attorneys for Eduardo Hernandez